

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF NEW YORK

USDC SDNY
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PATIENCE ATITO,

Plaintiff,

-against-

KHALEEL YORKE & A&Y GROUP, Inc.,

Defendants.

1:21-cv-8448-MKV

ORDER

MARY KAY VYSKOCIL, United States District Judge:

Plaintiff commenced this action on July 15, 2021, in the Supreme Court of the State of New York, County of Bronx, by filing a Summons and Verified Complaint. [ECF No. 1-1].

Defendants were served with the Summons and Complaint on September 13, 2021, and September 27, 2021.¹ [ECF No. 1].

On October 13, 2021, Defendants removed this action to Federal Court. [ECF No. 1]. In their Notice of Removal, Defendants allege that the Court has diversity jurisdiction under 28 U.S.C. § 1332(a). As alleged in the Verified Complaint, Plaintiff is a citizen of the County of Bronx, State of New York. Defendant Khaleel Yorke is a citizen of the State of Connecticut and Defendant A&Y Group, Inc. is a corporation organized under the laws of the State of Connecticut and is a citizen of the State of Connecticut.

However, the Court notes that to date, Plaintiff has not filed an appearance in this action. Pursuant to 28 U.S.C. § 1446(d), “[p]romptly after the filing of such notice of removal of a civil action the defendant or defendants shall give written notice thereof to all adverse parties and shall file a copy of the notice with the clerk of such State court, which shall effect the removal and the State court shall proceed no further unless and until the case is remanded.” To satisfy the requirements of 28 U.S.C. § 1446(d) and confer jurisdiction over this action to the Federal Court,


Defendants must: (1) file the notice of removal with the federal court; (2) provide written notice to the adverse parties; *and* (3) file a copy of the notice of removal with the appropriate state court. *See Hardman v. Bristol-Myers Squibb Co.*, No. 18-CV-11223 (ALC), 2019 WL 1714600, at *3 (S.D.N.Y. Apr. 17, 2019); *Ynoa v. Kutner*, No. 10 CIV. 5398 NRB, 2011 WL 1796320, at *1 (S.D.N.Y. May 5, 2011).

The Notice of Removal has been filed in this action. [See ECF No. 1]. In the Notice of Removal, Defendants averred that “promptly after filing the notice of removal, Defendants will give written notice to all adverse parties and will file a copy of this Notice of Removal with the Supreme Court of the State of New York, County of Bronx.” [ECF No. 1]. Defendants have also filed the Notice of Removal in the Supreme Court of the State of New York, County of Bronx. (*See* Notice of Removal, *Atito v. Yorke*, No. 809662/2021E (N.Y. Sup. Ct. 2021)).

IT IS HEREBY ORDERED that on or before November 30, 2021, Defendants shall serve the Notice of Removal on Plaintiff and file proof of service on the docket. Failure to do so may result in remand of this action.

SO ORDERED.

**Date: November 16, 2021
New York, NY**



MARY KAY VYSKOCIL
United States District Judge